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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,043	11/13/2003	Akihiro Kajita	245433US2S	7097

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EXAMINER

WILLIAMS, ALEXANDER O

ART UNIT PAPER NUMBER

2826

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,043

Applicant(s)

KAJITA ET AL.

Examiner

Alexander O. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Serial Number: 10/706043 Attorney's Docket #: 24533US2S

Filing Date: 11/13/2003; claimed foreign priority to 7/30/2003

Applicant: Kajita et al.

Examiner: Alexander Williams

Applicant's election of the species of figures 1 to 7 (claims 1 to 9), filed 12/13/04, has been acknowledged.

This application contains claims 10 to 19 drawn to an invention non-elected without traverse. A complete response to the final rejection must include cancellation of non-elected claims or other appropriate action (see 37 CFR § 1.144 & MPEP § 821.01).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Initially, it is noted that the 35 U.S.C. § 103 rejection based on the insulating films deals with an issue (i.e., the integration of multiple pieces into one piece or conversely,

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using multiple pieces in replacing a single piece) that has been previously decided by the courts.

In Howard v. Detroit Stove Works 150 U.S. 164 (1893), the Court held, "it involves no invention to cast in one piece an article which has formerly been cast in two pieces and put together...."

In In re Larson 144 USPQ 347 (CCPA 1965), the term "integral" did not define over a multi-piece structure secured as a single unit. More importantly, the court went further and stated, "we are inclined to agree with the solicitor that the use of a one-piece construction instead of the [multi-piece] structure disclosed in Tuttle et al. would be merely a matter of obvious engineering choice" (bracketed material added). The court cited In re Fridolph for support.

In re Fridolph 135 USPQ 319 (CCPA 1962) deals with submitted affidavits relating to this issue. The underlying issue in In re Fridolph was related to the end result of making a multi-piece structure into a one-piece structure. Generally, favorable patentable weight was accorded if the one-piece structure yielded results not expected from the modification of the two-piece structure into a single piece structure.

Claims 1 to 3 and 7 to 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe (U.S. Patent Application Publication # 2004/0021227 A1). 1. Watanabe (figures 1 to 38) specifically figure 38 show a semiconductor device comprising: a semiconductor substrate **400**; an active element structure **402** formed on the semiconductor substrate, and having a connection region formed in the surface of the semiconductor substrate; a first insulating film **406,404** provided on the semiconductor substrate; a contact hole (**hole in which 416 resides**) extending from a surface of the first insulating film to the connection region; a contact plug (**material 414 within the contact hole**) provided in the contact hole; and a buried conductive film **420** filled in a clearance formed in the contact plug (**tungsten**), consisting of a material different (**copper film**) from the contact plug, having a continuous surface without forming a step with the surface of the contact plug, and having a first width ((**upper**

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portion of 420 within 414 within 416) in the surface of the buried conductive film and a second width (**lower portion of 420 within 414 within 416)** larger than the first width in a deeper position than the surface of the buried conductive film.

2. The device according to claim 1, Watanabe further comprising: a barrier metal (**the portions of 418 on the top surface of contact hole on the edges of the contact hole**) provided in an interconnect trench formed on the contact plug and the buried conductive film, and having a bottom surface common to the upper surface of the contact plug and the buried conductive film; and an interconnect layer (**upper portions of 420**) provided in the interconnect trench, and consisting of a conductive material.

3. The device according to claim 1, Watanabe further comprising: a first intervention conductive film **412** interposed between the inner surface of the contact hole and the contact plug.

7. The device according to claim 2, Watanabe show wherein a film thickness of the first intervention conductive film is equal to or less than 10% of the width of cross section of the interconnect trench (see figure 38).

Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

8. The device according to claim 1, Watanabe show wherein the active element **402** structure includes a transistor.

9. The device according to claim 1, Watanabe show wherein the contact plug **414** consists substantially of W.

Therefore, it would have been obvious to one of ordinary skill in the art to use the insulating films as "merely a matter of obvious engineering choice" as set forth in the above case law.

Claims 4 to 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Response

Applicant's arguments filed 6/17/05 have been fully considered, but are moot in view of the new grounds of rejections detailed above.

The insertion of Applicant's additional claimed language, for example, "in claim 1" cause for further search and consideration to make this action final.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

The listed references are cited as of interest to this application, but not applied at this time.

Field of Search	Date
U.S. Class and subclass: 257/758,774,773,758,301,505,303,748,304,762,764,767, 766	3/11/05 8/25/05

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Other Documentation: foreign patents and literature in 257/758,774,773,758,301,505,303,748,304,762,764,767, 766	3/11/05 8/25/05
Electronic data base(s): U.S. Patents EAST	3/11/05

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander O. Williams whose telephone number is (571) 272 1924. The examiner can normally be reached on M-F 6:30AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272 1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alexander O Williams
Primary Examiner
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AOW
8/26/05